

HONORABLE RONALD B. LEIGHTON

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

LINDA D SELIVANOW, et al.,

Plaintiff,

v.

BANK OF NEW YORK MELLON, et al.,

Defendant.

CASE NO. C15-5412 RBL

ORDER GRANTING BANK OF
AMERICA'S MOTION TO DISMISS

THIS MATTER is before the Court on Defendant Bank of America's Motion to Dismiss [Dkt. #22]. Plaintiffs' Selivanow has not responded to the Motion. She has filed for bankruptcy protection. Under the case law of the Ninth Circuit, a motion to dismiss a pre-petition lawsuit is not covered by the automatic stay. *In re Merrick*, 175 B.R. 333 (9th Circuit BAP, 1994).

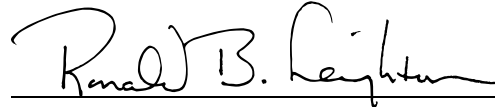
Defendant asks the Court to consider Selivanow's failure to respond and admission that the motion has merit under Local Rule 7:

(b) Obligation of Opponent. Each party opposing the motion shall, within the time prescribed in LCR 7(d), file with the clerk, and serve on each party that has appeared in the action, a brief in opposition to the motion, together with any supporting material of the type described in subsection (1). *If a party fails to file papers in opposition to a motion, such failure may be considered by the court as an admission that the motion has merit.*

1 The Motion does have merit, and the Court will consider Selivanow's failure as an admission
2 to that effect. The Motion to Dismiss is GRANTED and Selivanow's claims against Bank of
3 America in this case are DISMISSED with prejudice and without leave to amend.

4 IT IS SO ORDERED.

5 Dated this 11th day of December, 2015.

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8 Ronald B. Leighton
9 United States District Judge
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